

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**LONESTAR AIRPORT  
HOLDINGS, LLC,**

*Plaintiff*

v.

**CITY OF AUSTIN, TEXAS,**

*Defendant*

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**CIVIL NO. 1:22-CV-00770-RP**

**ORDER**

Now before the Court is Defendant City of Austin’s Opposed Motion for Limited Expedited Discovery, filed December 22, 2022 (Dkt. 57). By Text Order entered December 24, 2022, the District Court referred Defendant’s Motion to the undersigned Magistrate Judge for disposition, pursuant to 28 U.S.C. § 636(b)(1)(A), Federal Rule of Civil Procedure 72, and Rule 1(c) of Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas (“Local Rules”).

Local Rule CV-7(g) provides, in relevant part:

The court may refuse to hear or may deny a nondispositive motion unless the movant advises the court within the body of the motion that counsel for the parties have conferred in a good-faith attempt to resolve the matter by agreement and certifies the specific reason that no agreement could be made.

In its Certificate of Conference, Defendant states that, on December 21, 2022, it “notified the Plaintiff of its requested discovery through counsel and advised that the City would file a motion if it did not receive a response to the letter by 5:00 p.m.” the next day. Dkt. 57 at 7.

The Court finds that Defendant failed to confer with Plaintiff in good faith before filing its motion and thus did not satisfy the conference requirement of Local Rule CV-7(g). Because it failed to confer, Defendant also failed to certify “the specific reason that no agreement could be made,” as required by Rule CV-7(g), or show that judicial intervention is required to obtain the

discovery it seeks. *See, e.g., McCallum v. Camping World, Inc.*, 2019 WL 9197839, at \*1 n.1 (W.D. Tex. Dec. 17, 2019) (Garcia, C.J.) (explaining that “good faith” requirement of Local Rule CV-7 requires “two-way communication which is necessary to genuinely discuss any issues and to avoid judicial recourse”); *Collins v. Easynews, Inc.*, No. A-06-CA-451-LY, 2007 WL 9701619, at \*2 (W.D. Tex. May 17, 2007) (Pitman, M.J.) (dismissing motion to compel as premature).

For these reasons, Defendant City of Austin’s Opposed Motion for Limited Expedited Discovery (Dkt. 57) is **DENIED WITHOUT PREJUDICE** pursuant to Local Rule CV-7(g).

**IT IS FURTHER ORDERED** that this case be removed from the Magistrate Court’s docket and returned to the docket of the Honorable Robert Pitman.

**SIGNED** on January 2, 2023.



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SUSAN HIGHTOWER  
UNITED STATES MAGISTRATE JUDGE